

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Respondent,

Criminal No. 11-0142  
ELECTRONICALLY FILED

v.

KELLY ANN BURDETTE a/k/a KELLY  
MONTIFIOR a/k/a KELLY STURGIS,

Petitioner.

**MEMORANDUM AND ORDER OF COURT DENYING  
PETITIONER'S MOTION FOR HABEAS CORPUS RELIEF (Doc. No. 32)**

Before the Court is Petitioner's *pro se* Motion for Reduced Sentence. Doc. No. 32.

Petitioner claims that she is not getting the medication she needs to manage her anxiety while incarcerated. *Id.* The Government filed a response to her request for a reduced sentence. Doc. No. 33.

By way of background, on March 28, 2012, this Court sentenced Petitioner to twelve months and one day, which was within the guideline range, after Petitioner pled guilty to one count of mail fraud. Doc. Nos. 17, 30. Petitioner's Motion indicates that personnel at Alderson Federal Camp, where Petitioner has been held since June 1, 2012, changed her anxiety medications and are depriving her of medication to help her sleep. She requests that this Court either reduce her sentence or place her on home confinement to serve the remainder of her sentence.

This Court construes Petitioner's Motion as a habeas petition filed pursuant to 28 U.S.C. § 2241. There is no indication that Petitioner exhausted her administrative remedies prior to filing this habeas petition.

It is the warden of the institution where a petitioner is housed who is the proper respondent in a habeas action. *See Ex parte Mitsuye Endo*, 323 U.S. 283, 306 (1944) (The important fact to be observed in regard to the mode of procedure upon this writ is, that it is directed to, and served upon, not the person confined, but his jailer); *see also Yi v. Maugans*, 24 F.3d 500, 507 (3d Cir. 1994) (It is the warden of the prison or the facility where the detainee is held that is considered the custodian for purposes of a habeas action.).

Given that the law in this regard, in this case, this Court clearly would have no personal jurisdiction over the warden at the Alderson Federal Camp (located in Anderson, West Virginia), with respect to this habeas petition. For this reason alone, the Court will deny Petitioner's Motion to Reduce Sentence. Doc. No. 32. Accordingly, the Court will not address the Government's substantive arguments set forth in its Response to Petitioner's Motion.

### **ORDER**

AND NOW, this 22<sup>nd</sup> day of August, 2012, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant's Motion to Reduce Sentence (Doc. No. 32 in the criminal action) is hereby DENIED.

No certificate of appealability shall issue.

s/ Arthur J. Schwab  
United States District Judge

cc: All Registered ECF Counsel and Parties

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